

Hearing Date and Time: June 29, 2022 at 10:00 am

Objection Date: June 15, 2022 at 4:00 pm

THE SARACHEK LAW FIRM

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Fochier, Purcell Murry, A&A HK Industrial, Mingle Fashion Limited
Mansheen Industries, Ltd. and AMW Vietnam Co. Ltd.*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

SEARS HOLDING CORPORATION, *et al.*¹,

Debtors.

Chapter 11

Case No. 18-23538 (RDD)

(Jointly Administered)

**OBJECTION OF MIEN CO. LTD., HELEN ANDREWS, STRONG PROGRESS GARMENT
FACTORY COMPANY, LTD, SAMIL SOLUTIONS, SHANGHAI FOCHIER, PURCELL
MURRAY, A&A HK INDUSTRIAL, MINGLE FASHION, MANSHEEN INDUSTRIES, LTD,
AMW VIETNAM CO. LTD TO THE MOTION OF THE OFFICIAL COMMITTEE OF
UNSECURED CREDITORS FOR ENTRY OF AN ORDER PURSUANT TO BANKRUPTCY
CODE SECTION 105, 363, 364 AND 1142 AND BANKRUPTCY RULES 3020(D), 4001, AND 9014
AUTHORIZING ENTRY BY THE DEBTORS ESTATES INTO THE LITIGATION FUNDING
ARRANGEMENT WITH BENCH WALK 21p L.P.**

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are as follows: Sears Holdings Corporation (0798); Kmart Holding Corporation (3116); Kmart Operations LLC (6546); Sears Operations LLC (4331); Sears, Roebuck and Co. (0680); ServiceLive Inc. (6774); SHC Licensed Business LLC (3718); A&E Factory Service, LLC (6695); A&E Home Delivery, LLC (0205); A&E Lawn & Garden, LLC (5028); A&E Signature Service, LLC (0204); FBA Holdings Inc. (6537); Innovel Solutions, Inc. (7180); Kmart Corporation (9500); MaxServ, Inc. (7626); Private Brands, Ltd. (4022); Sears Development Co. (6028); Sears Holdings Management Corporation (2148); Sears Home & Business Franchises, Inc. (6742); Sears Home Improvement Products, Inc. (8591); Sears Insurance Services, L.L.C. (7182); Sears Procurement Services, Inc. (2859); Sears Protection Company (1250); Sears Protection Company (PR) Inc. (4861); Sears Roebuck Acceptance Corp. (0535); Sears, Roebuck de Puerto Rico, Inc. (3626); SYW Relay LLC (1870); Wally Labs LLC (None); SHC Promotions LLC (9626); Big Beaver of Florida Development, LLC (None); California Builder Appliances, Inc. (6327); Florida Builder Appliances, Inc. (9133); KBL Holding Inc. (1295); KLC, Inc. (0839); Kmart of Michigan, Inc. (1696); Kmart of Washington LLC (8898); Kmart Stores of Illinois LLC (8897); Kmart Stores of Texas LLC (8915); MyGofer LLC (5531); Sears Brands Business Unit Corporation (4658); Sears Holdings Publishing Company, L.L.C. (5554); Sears Protection Company (Florida), L.L.C. (4239); SHC Desert Springs, LLC (None); SOE, Inc. (9616); StarWest, LLC (5379); STI Merchandising, Inc. (0188); Troy Coolidge No. 13, LLC (None); BlueLight.com, Inc. (7034); Sears Brands, L.L.C. (4664); Sears Buying Services, Inc. (6533); Kmart.com LLC (9022); Sears Brands Management Corporation (5365); and SRe Holding Corporation (4816). The location of the Debtors' corporate headquarters is 3333 Beverly Road, Hoffman Estates, Illinois 60179.

TO: THE HONORABLE ROBERT D. DRAIN
UNITED STATES BANKRUPTCY JUDGE

1. Mien Co. Ltd., Helen Andrews, Strong Progress Garment Company, Ltd., Samil Solutions, Shanghai Fochier, Purcell Murray, A&A HK Industrial, Mingle Fashion Mansheen Industries, Ltd, AMW Vietnam Co. Ltd. (the “Objecting Parties”), by and through their undersigned counsel, The Sarachek Law Firm, hereby object (the “Objection”) to the Motion of the Official Committee of Unsecured Creditors for entry of an order pursuant to Bankruptcy Code Section 105, 363, 364 and 1142 and Bankruptcy Rules 3020(d), 4001, and 9014 authorizing entry by the debtors estates into the litigation funding arrangement with Bench Walk 21p L.P. (“Litigation Financing Motion”). In support of their Objection, the Objecting parties state as follows:

Summary

2. Ecclesiastes notes:

For everything there is a season, a right time for every intention under heaven — a time to be born and a time to die, a time to plant and a time to uproot.

3. Simply put, it is time for administrative creditors to be paid. They are the fulcrum creditors in this case and under the Bankruptcy Code must be paid in order for the plan to become effective. By its motion, the Official Committee of Unsecured Creditors now plans to spend an undetermined amount to pursue a litigation strategy against ESL Investments, Inc. and its affiliated entities that has proven costly, time consuming, and uncertain. Because the Committee has refused to settle with the ESL Parties, administrative and other priority creditors have not been paid in full.

4. The parties are now conferring with capable mediators. Presumably, the Creditors’ Committee does not like what’s being offered. However, there comes a time in every case where parties need to acknowledge the realities of a situation. Administrative creditors in this case took a discount (between 20-25%) with the understanding that they would be paid quickly and that has not happened. Over two and a half years have passed since the plan of reorganization was approved by this

court. The Litigation Financing Motion proposes to subordinate administrative creditors with no end in sight. The Objecting Parties say “no.” The proposed litigation funding violates the Bankruptcy Code and would be a material modification of the plan of reorganization in this case. That fact requires another vote. Administrative creditors want payment and a conclusion to this case. If that means the current advisory board needs to be replaced with a trustee, so be it. In any event, the time is now to end this case.

Conclusion

5. For the above reasons, the Objecting Creditors request that the Court deny the Motion of the Official Committee of Unsecured Creditors for entry of an order pursuant to Bankruptcy Code section 105, 363, 364 and 1142 and Bankruptcy Rules 3020(d), 4001, and 9014 authorizing entry by the debtors estates into the litigation funding arrangement with Bench Walk 21p L.P.

Date: New York, NY
June 15, 2022

Respectfully submitted,

THE SARACHEK LAW FIRM

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